

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff,

v.

BROOKS COUNTY, TEXAS,

Defendant.

§
§
§
§
§
§
§
§
§
§
§

Civil Action No. 2:11-CV-00086

CONSENT DECREE

THIS CONSENT DECREE is made and entered into by and among the Plaintiff, Equal Employment Opportunity Commission ("EEOC"), and the Defendant, Books County, Texas, ("Defendant") (collectively referred to as the "Parties"). The Parties agree that this Consent Decree resolves the allegations raised by the EEOC in the above-referenced Civil Action No. 2:11-cv-00086.

The EEOC initiated this lawsuit under the Age Discrimination in Employment Act ("ADEA"), to correct unlawful employment practices on the basis of age and to make whole Ana Gonzalez, who was adversely affected by such practices. The EEOC alleges that Defendant violated the ADEA by failing or refusing to provide a salary raise to Ana Gonzalez and refusing to consider her for a new position of employment because she previously engaged in protected conduct by filing ADEA charges of discrimination.

The EEOC and Defendant wish to settle this action, without the necessity of further litigation, pursuant to the terms delineated in this Consent Decree. The Consent Decree is entered for the sole purpose of avoiding the expenses associated with this litigation.

NOW, THEREFORE, in consideration of the mutual promises and agreements between

the Parties, as set forth herein, the sufficiency of which is hereby acknowledged, the Parties request and the Court agrees to ORDER, ADJUDGE AND DECREE as follows:

1. The Parties agree that this Court has jurisdiction of the subject matter of the claims and causes of action asserted by the EEOC against Defendant, venue is proper, and all administrative prerequisites to the EEOC's filing have been met.

2. The Parties agree that this Consent Decree resolves all issues raised in the EEOC's Complaint in this case. The EEOC waives further litigation of all claims raised in its Complaint and/or Charge of Discrimination No. 36B-2009-00103. The EEOC expressly reserves its right, however, to process and litigate any other charges which may now be pending or may in the future be filed against Defendant.

3. Defendant, Brooks County, Texas, specifically asserts that by entering into this Consent Decree, it makes no admission of liability or wrongdoing, and makes no admission that its conduct was improper, discriminatory or illegal in any respect.

4. During the term of this Consent Decree, Defendant, its officers, successors, assigns, agents, servants, employees, attorneys, and all persons in active concert or participation with them, are hereby enjoined from engaging in retaliation and age discrimination in hiring and any other employment practice which violates the ADEA. Prohibited employment discrimination includes, but is not limited to:

- (a) Denying equal opportunity in employment or taking an adverse employment action against an applicant, employee or former employee because he/she: (1) engaged in statutorily protected activity by opposition to an employment practice believed to be unlawful discrimination, or (2) participated in the filing of a charge or in any other proceedings involving claims of discrimination.
- (b) Refusing to hire any qualified applicant for employment because they are over the age of forty years old; and

- (c) Maintaining any practice or policy that violates the ADEA by depriving or tending to deprive any individual of employment opportunities because of such individual's age or protected conduct.

5. Within thirty (30) days of the entry of this Consent Decree, Defendant shall pay, in settlement of this dispute, a total sum of \$20,000 (Twenty Thousand, Dollars), and payment will be paid as follows:

By check mailed directly to Ana Gonzalez; and, a copy of the settlement check and any accompanying transmittal documents shall be forwarded to Judith G. Taylor, Supervisory Trial Attorney, San Antonio Field Office, United States Equal Employment Opportunity Commission, 5410 Fredericksburg Road, Suite 200, San Antonio, Texas 78229.

6. Within sixty (60) days of the entry of this Consent Decree, Defendant will implement an age discrimination and retaliation policy that meets the following criteria:

- (a) States that Defendant: (i) prohibits discrimination against any employee on the basis of age in violation of the ADEA; and, (ii) prohibits any act, policy or practice that has the effect denying employment on the basis of age in violation of the ADEA;
- (b) States that Defendant (i) prohibits retaliation against any employee who has engaged in protected conduct under the ADEA; and, (ii) prohibits any act, policy or practice that might dissuade a reasonable person from making or supporting a claim of discrimination;
- (c) Provides for prompt investigation of discrimination and/or retaliation complaints from both employees and employment candidates and provides for prompt action, which is appropriate and effective, to remedy the discrimination;
- (d) Provides that upon the conclusion of Defendant's investigation, the results of the investigation and the remedial actions taken or proposed will be promptly communicated in writing to the complaining party;
- (e) Provides for substantial and progressive discipline for violating Defendant's discrimination policy up to and including discharge; and
- (f) Requires that all employees and employment candidates report incidents of discrimination and retaliation to the person(s) identified by Defendant as the person(s) charged with the responsibility for investigating discrimination and retaliation complaints.

7. During the term of this Consent Decree, Defendant shall provide training to all its elected officials with authority to hire, promote, terminate and/or demote employees of Defendant on retaliation and age discrimination, to be apportioned as follows. Within one hundred eighty (180) days of entry of this Consent Decree, Defendant shall provide not less than two (2) hours of training that shall explain that discrimination on the basis of age, in particular, that failing to hire older employment candidate violates the ADEA; it shall instruct what conduct may constitute a violation of the ADEA and explain the damaging effects of discrimination. An attorney who is knowledgeable and experienced in labor and employment law or a human resources specialist shall conduct this training and will send a copy of the training presentation outline to the EEOC at least (10) days before any training session occurs. The EEOC shall have the right to approve the trainer and the training. Within twenty (20) days after the training has been completed, Defendant shall provide the EEOC with written confirmation that the training has been completed, along with a list of the individuals, identified by name and position, who attended each training program and the date of their attendance.

During the term of this Consent Decree, Brooks County, Texas, will provide the same two (2) hours of training within thirty (30) days of the second anniversary date of the entry of this Consent Decree for all elected officials with authority to hire, promote, terminate and/or demote employees of Defendant. Within thirty (30) days after each training program, Defendant shall provide the EEOC with written confirmation that the training has been completed, along with a list of the individuals, identified by name and position, who attended each training program and the date of their attendance.

8. Within thirty (30) days of the entry of this Consent Decree, Defendant shall post copies of the Notice attached as Exhibit "A" to this Consent Decree in conspicuous locations

easily accessible to and commonly frequented by employees. The Notice shall remain posted for the duration of this Consent Decree. Defendant shall ensure that the postings are not altered, defaced or covered by any other material.

9. During the term of this Consent Decree, with five (5) days prior, written notice given to the County Judge, the EEOC shall have the right to ensure compliance with the terms of this Consent Decree and may: conduct inspections at Defendant's facilities; interview employees; and, examine and copy relevant documents.

10. Defendant shall bear the costs associated with administering and implementing the provisions of this Consent Decree.


11. The terms of this Consent Decree shall be binding upon the EEOC and Defendant, their respective agents, officers, employees, servants, successors, and assigns, as to the issues resolved herein.

12. The duration of this Consent Decree shall be two (2) years from the date of its entry with the Court. The Parties agree that the Court shall retain jurisdiction of this case during the term of this Consent Decree to enforce compliance and to take any action necessary and/or appropriate for its interpretation, execution, modification and/or adjudication of disputes.

13. The parties to this Consent Decree shall bear their own costs and attorney's fees incurred in this action as of the date of entry of this Consent Decree by the Court.

14. When this Consent Decree requires the submission by Defendant of documents or other materials to the EEOC, such documents or other materials shall be mailed to Judith G. Taylor, Supervisory Trial Attorney, United States Equal Employment Opportunity Commission, San Antonio Field Office, 5410 Fredericksburg Road, Suite 200, San Antonio, Texas 78229.

SO ORDERED AND ENTERED this 15th day of FEBRUARY, 2012.


THE HONORABLE JANIS GRAHAM JACK
UNITED STATES DISTRICT JUDGE

AGREED TO AS TO FORM AND SUBSTANCE:

ATTORNEYS FOR DEFENDANT

/s/ Patrick Connor
by permission of Rodney R. Handel
RODNEY R. HANDEL
Attorney in Charge
Texas State Bar No. 08897460
E-mail: rod@hunterhandel.com

HUNTER & HANDEL
555 North Carancahua,
Suite 1600, Tower II
Corpus Christi, Texas 78401
Telephone: (361) 884-8777
Facsimile: (361) 884-1628

ATTORNEYS FOR PLAINTIFF

/s/ Patrick Connor
by permission of Robert A. Canino
ROBERT A. CANINO
Regional Attorney
Oklahoma State Bar No. 011782

/s/ Patrick Connor
by permission of Judith G. Taylor
JUDITH G. TAYLOR
Supervisory Trial Attorney
Texas State Bar No. 19708300
E-mail: judith.taylor@eeoc.gov

/s/ Patrick M. Connor

PATRICK M. CONNOR
Trial Attorney
Attorney in Charge
Texas State Bar No. 24076165
E-mail: patrick.connor@eeoc.gov

P. DAVID LOPEZ
General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
San Antonio Field Office
5410 Fredericksburg Road, Suite 200
San Antonio, Texas 78229-3555
Telephone: (210) 281-7636
Facsimile: (210) 281-7669